

Appln. 09/492,846
Amdt dated August 19, 2003
Reply to Office action of May 7, 2003

REMARKS/ARGUMENTS

In response to the Office Action dated May 7, 2002, Applicants file the present RCE and have amended the independent claims to clarify embodiments consistent with the present invention. Applicants have also canceled claims 67-73 and 75-81. Claims 1-7, 9-15, 34-40, 42-48, and 122 are pending. Reconsideration and allowance of all pending claims are respectfully requested.

Claims 1, 9, 10, 12, 34, 42, 43, 67, 75, 76, and 122 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 6,199,107 (Dujari patent). Applicants have canceled claims 67, 75, and 76. Applicants have amended independent claims 1, 34, and 122. In particular, each of the independent claims 1, 34, and 122 recite: "when the downloaded file includes a software file, selectively installing the software file so that a computer system can execute and run the software file upon selection by a user."

This amendment clarifies that the installation requires not only that the downloaded software is capable of running on the machine but, rather, that it is ready to be run when selected by a user. A software file may simply reside on a computer, such as in a desktop file. However, it requires additional steps so that, when selected by a user, the associated computer system recognizes the file as an executable software file, for example, and has the resources to run it.

The Dujari patent was referenced as disclosing this installation feature recited in the independent claims. In particular, the Examiner referenced column 8, lines 29-46 and indicated that installation is shown in the Dujari patent by transforming a code in order to have a file completely downloaded. However, this code is not software code; it is a value relating to the size of a file to be downloaded. Step 1116 in Figure 11 of the Dujari patent provides for transforming "code 206 into code 200 response." These codes are simply values (e.g., numbers) that the system requires to know the size of the files for downloading. A code (value) cannot be executed and run; it is simply a number, not an application program or executable software code. Therefore, Applicants respectfully submit that the Dujari patent does not disclose all elements of independent claims 1, 34, and 122.

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Dependent claims 9, 10, and 12 include all of the elements of claim 1, and Applicants respectfully submit that they are patentable over the Dujari patent for the reasons provided above with respect to claim 1. Dependent claims 42 and 43 include all of the elements of claim 34, and Applicants respectfully submit that they are patentable over the Dujari patent for the reasons provided above with respect to claim 34.

Claims 2-4, 11, 35-37, 44, 68-70, and 77 were rejected under 35 U.S.C. § 103 as having been obvious over the Dujari patent and U.S. Patent No. 6,049,892 (Casagrande patent). Claims 5-7, 13-15, 38-40, 46-48, 71-73, and 79-81 were rejected under 35 U.S.C. § 103 as having been obvious over the Dujari patent and U.S. Patent No. 6,023,698 (Lavey patent). Applicants have canceled claims 68-73, 77, and 79-81.

The Casagrande patent was cited against dependent claims 2, and 35, in combination with the Dujari patent, as disclosing sending data in a stream of bytes. However, even if the system of the Dujari patent were modified to download a stream of data, it still does not disclose the installation feature required by claims 2 and 35. The way in which the data or file is downloaded is distinct from steps required after download in order to install software to be run on a computer.

The Dujari patent was cited against dependent claims 3, 4, 11, 36, 37, and 44 as disclosing use of a temporary folder, a start byte number, and tracking numbers of transmitting bytes. However, claims 3, 4, 11, 36, 37, and 44 also require an installation feature, which is not disclosed in the Dujari patent.


The Lavey patent was cited against claims 5-7, 13-15, 38-40, and 46-48, in combination with the Dujari patent, as disclosing the various visual features recited in these claims. However, even if the system of the Dujari patent were modified to provide for these various visual features, it still does not disclose the installation feature required by claims 5-7, 13-15, 38-40, and 46-48. The display of visual information concerning a file download is distinct from steps required after download in order to install software to be run on a computer.

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In view of the above amendments and remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Respectfully submitted,

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